IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

WP(C).No. 37275 of 2003(K)

PETITIONER:

BHASKARAN, S/O. MARASARI NANU,
VELLITHIRUTHI DESOM, CHOWANNUR VILLAGE,
TALAPPILLY TALUK, THRISSUR DISTRICT.

BY ADV. SRI.S.V.BALAKRISHNA IYER
SRI.P.B.KRISHNAN

RESPONDENT:

SREEDHARAN, S/O. MARASARI NANU,
VELLITHIRUTHI DESOM, CHOWANNUR VILLAGE,
TALAPPILLY TALUK, THRISSUR DISTRICT.

BY ADV. SRI.N.P.SAMUEL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC : 37275 OF 2003

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE ORDER DT.03.11.03 IN EA NO.435 OF 2003 IN EA NO.1 OF 2003 IN EP NO.6 OF 1999 IN OS NO.40 OF 1977 ON THE FILE OF THE MUNSIFF COURT, WADAKKANCHERRY.

RESPONDENT'S EXHIBITS:

EXT.R1(A) : TRUE COPY OF AFFIDAVIT WITH PETITION AS EA NO.1 OF 2002 IN EP NO.6/99 IN OS NO.40/77 FILED BY PETITIONER BEFORE THE MUNSIFF COURT, WADAKKANCHERRY DT.04.01.03.

/TRUE COPY/

PA TO JUDGE

PIUS C. KURIAKOSE, J.

W.P.(C) No. 37275 OF 2003

Dated this the 3rd day of August, 2007

JUDGMENT

Heard both sides. I am of the view that the learned Munsiff was not justified in insisting that the prayer for redelivery of the property can be granted only after enquiring into the other prayers in Execution Petition is completed. The learned Munsiff has found that the entire decree schedule property was delivered over to the respondent. In fact, the copy of the delivery receipt issued by the respondent will show that he received the entire property and the Amin's report is also to the effect that the entire decree schedule property including the building was delivered over to the respondent herein. Being an execution court, it was the obligation of that court to ensure that the order of the Supreme Court which is virtually the order which was sought to be executed was executed at the earliest. Setting aside the impugned order, Ext.P1,I direct the learned Munsiff to order redelivery of the property within 30 days of receiving copy of this judgment. All claims legally available to the respondent will be considered by the learned Munsiff while enquiring into the other prayers in the Execution Petition.

The Writ Petition is allowed as above. No costs.

PIUS C. KURIAKOSE, JUDGE

btt